

HLUSA/ARC COOPERATIVE WORKING AGREEMENT

FMC AGREEMENT NO. 012441

AGREEMENT TYPE:	COOPERATIVE WORKING AGREEMENT
EXPIRATION DATE:	NONE
LAST PUBLICATION	NONE

TABLE OF CONTENTS

ARTICLE 1: Full Name Of The Agreement .....	2
ARTICLE 2: Purpose Of The Agreement .....	2
ARTICLE 3: Parties To The Agreement .....	2
ARTICLE 4: Geographic Scope Of The Agreement .....	3
ARTICLE 5: Agreement Authority .....	2
ARTICLE 6: Officials Of The Agreement And .....	5
ARTICLE 7: Membership And Withdrawal .....	5
ARTICLE 8: Voting .....	6
ARTICLE 9: Duration And Termination Of Agreement.....	6
ARTICLE 10: Non-Assignment.....	7
ARTICLE 11: Arbitration .....	7
ARTICLE 12: Applicable Law And Severability .....	9
ARTICLE 13: Counterparts.....	10

ARTICLE 1: FULL NAME OF THE AGREEMENT

The full name of this Agreement is the HLUSA/ARC Cooperative Working Agreement (the “Agreement”).

ARTICLE 2: PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to authorize the Parties to discuss areas of potential cooperation, to agree to the sale and purchase of space on the vessels operated by one another in the Trade and to engage in a limited range of cooperative activities in connection with the sale and purchase of such space.

ARTICLE 3: PARTIES TO THE AGREEMENT

The Parties to the Agreement (each herein referred to as a “Party” or together the “Parties”) are:

1. Hapag-Lloyd USA, LLC  
399 Hoes Lane  
Piscataway, NJ 08884  
(hereinafter referred to as “HLUSA”)
2. American Roll-On Roll-Off Carrier, LLC  
188 Broadway  
Woodcliff Lake, NJ 07677  
(hereinafter referred to “ARC”)

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

This Agreement applies to the trade between ports on the United States Atlantic and Gulf Coasts on the one hand and ports in North Europe (including the U.K. and Ireland) and on the Baltic Sea, Mediterranean Sea, Arabian Sea, Red Sea, and Persian Gulf, and ports in West and South Africa on the other hand ("the Trade"). The specific countries included in the Trade are listed in Appendix A hereto.

ARTICLE 5: AGREEMENT AUTHORITY

5.1 Discussion Authority. The Parties are authorized to discuss and agree on possible forms of operational cooperation in the Trade, such as the on-going, structured chartering of space, the sharing of vessels, and/or the routing and scheduling of vessels within the Trade. It is understood that no agreement reached pursuant to this Article 5.1 will be implemented until an appropriate filing has been made with the U.S. Federal Maritime Commission and become effective.

5.2 Ad Hoc Space Chartering. The Parties may consult and agree upon the sale of space to each other on an *ad hoc* basis for carriage of cargoes on vessels operated by them in the Trade. The Parties may consult and agree on the terms and conditions of and relating to such sale, including without

limitation terms and conditions relating to the compensation to be paid for such space, and ancillary services and accessorial charges for the carriage thereunder. The Parties may use space purchased under this Agreement regardless of the origin or destination of the cargo, including transshipment of cargo to or from an origin or destination which is within or outside the scope of this Agreement, whether under a through bill of lading or otherwise. The Parties are authorized to discuss and agree upon such general administrative matters and other terms and conditions concerning the implementation of this *ad hoc* space chartering authority as may be necessary or convenient from time to time including but not limited to record-keeping, responsibility for loss or damage, insurance, liabilities, claims, indemnification, consequences for delays, and treatment of hazardous and dangerous cargoes.

5.3 Information Exchange. The Parties are authorized to obtain, compile and exchange information related to operations in the Trade such as supply and demand and vessel utilization forecasts/projections, operational data on vessels and terminals, and market share information. Nothing in this Article 5.3 authorizes the Parties to exchange information on commercial matters relating to their respective relationships with their customers such as freight rates, tariff items, and/or confidential service contract terms or conditions.

5.4 No Partnership. Notwithstanding any provision in the Agreement to the contrary, the rights and obligations under this Agreement are personal to the Parties and are non-assignable and nothing herein shall constitute a partnership, association, or joint venture.

ARTICLE 6: OFFICIALS OF THE AGREEMENT AND  
DELEGATIONS OF AUTHORITY

The following are authorized to subscribe to and file this Agreement and any accompanying materials and any subsequent modifications to this Agreement with the Federal Maritime Commission:

1. Any authorized officer of each of the Parties; and
2. Legal counsel for each of the Parties.

ARTICLE 7: MEMBERSHIP AND WITHDRAWAL

7.1 Membership. Membership is limited to the Parties hereto except that additional carriers offering regular service in the Trade may be admitted by unanimous agreement of the Parties and by amendment of the Agreement pursuant to the Shipping Act of 1984, as amended.

7.2 Withdrawal. Any Party may withdraw from this Agreement for any reason upon forty-five (45) days prior written notice to the other Party. In the event that either Party withdraws hereunder, it shall remain liable to the other for all liabilities accrued during the term of the Agreement.

#### ARTICLE 8: VOTING

All actions taken pursuant to this Agreement shall require unanimous agreement of the Parties.

#### ARTICLE 9: DURATION AND TERMINATION OF AGREEMENT

9.1 Term. This Agreement shall take effect as of the effective date determined in accordance with Section 9.2 below and shall remain in effect thereafter until terminated pursuant to Article 7.2 hereof or as unanimously agreed by the Parties.

9.2 Effective Date. The effective date shall be the date the Agreement becomes effective pursuant to the Shipping Act of 1984, as amended.

ARTICLE 10: NON-ASSIGNMENT

The rights and obligations of each Party under the Agreement herein shall not be assignable except to subsidiaries, parent companies or fellow subsidiaries or with the prior unanimous agreement. Each Party shall warrant that any subsidiary or fellow subsidiary to which any assignment is made shall not be sold to another party.

ARTICLE 11: ARBITRATION

11.1 Except as otherwise provided herein, any dispute or claim arising hereunder which is not amicably settled by the Parties shall be settled by arbitration. Arbitration shall be held in New York, New York, under the rules then in effect of the Society of Maritime Arbitration, Inc. (the "Society's Rules") by three (3) arbitrators who shall have no financial or personal interest whatsoever in or with any Party and shall not have acquired a detailed prior knowledge of the matter in dispute. Upon unanimous agreement among the Parties involved in the dispute, arbitration may be held in any other place.

11.2 Any Party hereto may call for such arbitration by service upon the other of a written notice specifying a brief description of the disputes, the monetary amount involved, if any, the differences which such Party desires to put to arbitration and the remedy sought. Within fifteen (15) days after service



of such notice, each Party shall appoint an arbitrator and the two arbitrators so chosen shall appoint a third arbitrator. In the event either Party fails to appoint an arbitrator within the time provided, or if the two Party appointed arbitrators are unable to agree upon the third arbitrator, either Party may request the President of the Society of Maritime Arbitrators, Inc. to appoint such arbitrator. The arbitration shall thereafter be conducted under the Society's Rules except as expressly provided herein.

11.3 For any disputes involving one hundred thousand United States Dollars (US\$100,000) or less, excluding interest, costs of arbitration and legal fees and expense, the dispute is to be governed by the "Shortened Arbitration Procedure" unless a Party objects, in which case the Parties shall arbitrate on documents only, as contemplated under section 27 of Society's Rules.

11.4 The panel's decision, including written findings of fact and conclusions, shall be rendered within the period provided in the Society's Rules. Judgment may be entered on an award of the arbitrators and shall be enforceable in a court of competent jurisdiction. The arbitrators may allocate the costs of arbitration, along with reasonable attorney fees, to one or more participating parties in a manner consistent with the award or decision. The arbitrator may not award exemplary or punitive damages and may not order specific performance.

11.5 A copy of the decision shall be served by the arbitrators on the Parties. Notwithstanding Subsection (a) above, the Parties expressly agree that any award resulting from such arbitration shall be withheld from publication by the Society of Maritime Arbitrators, Inc. and/or its correspondents.

11.6 In the event of any dispute arising under any contract of carriage for cargo transported under this Agreement, the dispute as between the Parties shall be resolved under the provisions of Article 11 and Article 12 notwithstanding any conflicting provision for jurisdiction or applicable law in the contract of carriage, which conflicting provision shall be disregarded.

ARTICLE 12: APPLICABLE LAW AND SEVERABILITY

12.1 The interpretation, construction, and enforcement of this Agreement shall be governed by (i) the laws of the State of New York without reference to the laws respecting conflicts of laws, and (ii) to the extent applicable, the laws of the United States.

12.2 Notwithstanding the foregoing, if any term or provision to this Agreement shall be held to be illegal or unenforceable, in whole or in part, under any applicable enactment or rule or law, such term or provision or part shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall not be affected.

ARTICLE 13: COUNTERPARTS

This Agreement and any future amendment hereto may be executed in counterparts. Each such counterpart shall be deemed an original, and all together shall constitute one and the same agreement. This Agreement may be executed and delivered by exchange of email copies showing the signatures of each Party, and the original signatures need not be affixed to the same copy.

*Execution Follows*

HLUSA/ARC Cooperative Working Agreement  
FMC AGREEMENT NO. \_\_\_\_\_

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be  
executed by their duly authorized officers or agents as of this \_\_\_\_ day of  
November, 2016.

HAPAG-LLOYD USA, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

AMERICAN ROLL-ON ROLL-OFF CARRIER, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPENDIX A

The non-U.S. countries in the Trade (as defined in Article 4 hereof) are the following:

Europe

Germany  
Belgium  
Netherlands  
Switzerland  
France  
Poland  
Austria  
United Kingdom  
Ireland

Baltic

Russia  
Latvia  
Lithuania  
Estonia  
Belarus

Scandinavia

Norway  
Sweden  
Denmark  
Finland  
Iceland  
Greenland

West Mediterranean

Italy  
Portugal  
Spain  
Monaco  
Malta

Adriatic Sea

Croatia  
Slovenia  
Montenegro  
Bosnia and Herzegovina

Eastern Mediterranean

Greece  
Serbia  
Turkey  
Cyprus  
Israel  
Lebanon  
Syria

Black Sea

Bulgaria  
Romania  
Moldova  
Ukraine

Arabian Sea

Oman

Red Sea/Persian Gulf

Jordan  
Saudi Arabia  
United Arab Emirates  
Bahrain  
Qatar  
Oman (North of Muscat)  
Pakistan  
India

APPENDIX A (continued)

Africa

Morocco

Egypt

Tunisia

Libya

Djibouti

South Africa

Madagascar

Mozambique

Angola

Nigeria

Cameroon

Ivory Coast

Togo

Ghana

Liberia

Senegal